

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

### **Remarks/Arguments**

Claims 1-21 are pending and stand rejected on varying grounds under §103(a). Claims 14 and 21 are objected to.

Claims 1, 2, 3, 5, 6, 7, 15 and 21 have been amended. Independent claims 1, 5, and 15 have been amended to further clarify the claimed invention and resolve some informalities. Claims 2-3 and 6-7 have been amended in view of the amendments to the independent claims. Claim 21 has been amended to depend from claim 15. No new matter has been added with any of the amendments.

In view of the amendments above and comments below, Applicant respectfully submits that all the rejections have been successfully traversed and respectfully requests that the Examiner enter the proposed amendments and reconsider the present application including claims 1-21 and withdraw the rejection of and objection to the respective claims.

a) Claims 14 and 21 are objected to since they are essentially identical claims.

Claim 21 has been amended to correct a clerical error and now depends from claim 15. In view of this amendment, Applicant submits this objection has been traversed and the Examiner is therefore respectfully requested to reconsider and withdraw this objection to claims 14 and 21.

b) Claims 1-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Crockett (U.S. Patent No. 6,873,854) in view of Florkey et al (U.S. Patent No. 6,990,353).

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

Applicant notes initially that Florkey et al is prior art that applies via 103(a) if at all only under the provisions of §102(e)(2), i.e., "a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent ..." Applicant notes that the effective date of Florkey et al is February 19, 2003 and the filing date of the present application is December 30, 2003. Applicant seeks to preserve the right to provide a Rule 1.131 Declaration that disqualifies Florkey et al if the records as to conception and due diligence support such a Declaration.

Claim 1, claim 5, and claim 15 are independent claims with the other claims dependent on the closest lower numbered one of independent claims 1, 5, or 15. The present application concerns providing availability information to a client device where the availability information corresponds to other client devices that are members of a contact list associated with the client device. More specifically, the instant application concerns providing this availability information in a manner that is timely and efficient, i.e., limits the age of availability information and minimizes the use of limited radio frequency resources, and thus avoids known approaches of determining availability information based solely on device presence and sending availability information for a contact list on a regular schedule regardless of changes.

The claims define methods covering various aspects of the invention. Claim 1 is a method practiced within the wireless communication system that includes receiving availability messages from client devices indicating changes in their respective availability and transmitting to a particular client device and without a request from the particular client device updated availability information for members of its contact list only when the availability of a client device that is a member has changed. Claim 5 defines a method practiced at a client device

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

where the device detects a change in its own availability and sends a message to a controller signaling this change and receive messages based on a periodic determination of changes to other client devices. Claim 15 defines a method practiced, e.g., at a client device that includes receiving from a controller a message concerning availability of other client devices that are members of its contact list based on a periodic determination of changes and only when a change in such availability has occurred and storing corresponding availability information.

Crockett et al '854 discusses a scheme of adding a new member to an on-going group call in a corresponding PTT network as well as various attributes of that network and operation thereof. Crockett et al '854 does work with corresponding groups (contact list) pursuant to performing group calls. In all instances Crockett et al '854 relies on registration (via SIP) to provide "location" or IP addresses for each client. In the sense that registration requires a client to be active for the registration process, registration information may be viewed as an indirect (and often inaccurate or stale) assessment of presence on the network. Although presence on the network may be a requisite for availability for participation, e.g., in a group call, as a member of a contact list presence does not assure or indicate availability to another device, e.g., for a group call.

Thus in Applicant's view, Crockett et al '854 does not show or suggest the claimed technique for determining an availability of member devices by receiving messages at a controller which indicate any changes in availability of corresponding client devices. At best Crockett et al '854 uses registration exchanges and information (col. 6, lines 7-13) as an indirect assessment of a change from unavailable to available, however this does not account for devices

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

that go from being available to not available, e.g., as a result of losing power or losing contact with the network or that no longer desire to be available (for group calls).

Furthermore, Crocket et al '854 does not show or suggest the claimed transmitting from the controller to a particular client device information regarding availability of client devices that are members of its corresponding member list or doing so only when a change has occurred.

The passages cited by the Examiner, specifically: column 6, lines 7- 13 discusses registration and has nothing to do with transmitting to the particular client device any changes in availability; column 8, lines 30-44 discusses aspects of a group database that includes definitions of pre-defined groups with associated member list but suggests nothing about availability of the members; column 9, lines 65-67 discusses registration issues as a means for finding a client but suggest nothing regarding the claimed transmitting feature, column 10, lines 16-22 discusses registration of a client and in subsequent lines indicates that once registered a client may be invited to join a group call, however again nothing is suggested about sending changes in availability as claimed; column 11, lines 9-33 discusses groups, member lists, finding members, etc but again suggests nothing related to the claimed transmitting feature; column 16, lines 58-67 continued to column 17, lines 1-20 discusses adding a target device to an ongoing group call and this includes notifying the originating client that one or more targets are being added, however this does not suggest the claimed transmitting feature as this is responsive to a request from the originating device and participants in a group call are not necessarily members of a contact list associated with the originating device; and column 18, lines 49-58 discusses types of systems that may use the discussed techniques and has nothing to do with the claimed features.

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

Furthermore, as the Examiner concedes, Crockett et al '854 does not show the transmitting feature including the claimed only conditions.

Thus and for the reasons noted, Applicant respectfully submits that Crockett et al '854 does not teach or suggest the claimed determining by receiving feature of claim 1 or the transmitting feature or the transmitting feature with the only condition as claimed by claim 1.

Florkey et al concerns communication of call participation availability status from one mobile station to another mobile station and the Examiner maintains that Florkey et al shows or suggest the claimed transmitting only when a change in availability has occurred citing, for example, Figure 1, column 1, lines 20-30, column 2, lines 46- 50, column 3, lines 13-24, lines 36-55. Column 1, lines 20-30 discusses an AOL instant messaging application that runs on a personal computer and over the Internet and does not show or suggest the receiving messages as claimed or transmitting only when a change occurs in a wireless communication system. Column 2, lines 46- 50 describe FIG. 4 which describes a method of updating availability and while a change in the availability at least in one instance results in an update, nothing is said that updates are only provided when a change occurs. Column 3, lines 13-24, and lines 36-55 discuss various aspects of FIG. 1 and operation thereof. Again, while a change in availability appears to result in sending corresponding information nothing is said or suggested that this is done only when a change occurs.

Thus and in view of the above discussions, all of the features of claim 1 are not shown or suggested by these references and therefore claim 1 and any claims dependent thereon should be allowable over this combination of references.

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

Regarding claim 2, a further feature of queuing changes and if there are changes in availability stored in the queue, periodically transmitting these changes as claimed. The Examiner cites various passages of Crockett et al '854 for the claimed "storing the changes in availability of the client devices in a queue (see for example, column 4, lines 52-54, column 6, lines 30-34, column 9, lines 65-67 continued to column 10, lines 1-9). These passages speak to a DNS address and looking up an SRV, looking up locations, and locating clients based on an IP address, respectively. No where is a queue for changes in availability discussed. The Examiner then maintains that "periodically transmitting the changes in availability that are in the queue to the client devices" is shown for example, by the same passages. Whatever is going on in any of these passages does not show or suggest periodic transmission as claimed. Florkey et al is silent as to any queuing etc. Thus the features of claim 2 are not shown or suggested by this combination of references.

Regarding claim 3, a further feature of queuing changes in availability and transmitting these changes, if any, upon expiration of a timer as claimed. The Examiner maintains that Crockett teaches starting a timer (see for example, column 9, line 32); storing the changes in availability of the client devices in a queue (see for example, column 9, line 32, column 19, lines 26-41); when the timer expires (see for example, column 9, line 32, line 33), transmitting the changes in availability that are in the queue to the client devices (see for example, column 4, lines 52-54, column 6, lines 30-34, column 9, lines 65-67 continued to column 10, lines 1-9); and resetting the timer (see for example, column 4, lines 52-54, column 6, lines 30-34, column 9, lines 65-67 continued to column 10, lines 1-9, 40-50). The timer that Crockett et al '854 refers to

Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

is a call timer used for billing records and has nothing to do with the claimed feature. Thus and at least for this additional reason, the features of claim 3 are not shown or suggested by this combination of references.

For similar reasons the features of claim 4 are not shown or suggested by this combination of references.

Regarding claim 5, Applicant has amended claim 5 to recite features that are analogous to features from claim 2. Specifically claim 5 now recites "... receiving from the controller, based on a periodic determination of whether changes in availability of other client devices associated with the contact list have occurred and only when changes in availability of the other client devices have occurred, a message indicating the availability of the other client devices".

Crockett et al '854 and Florkey et al taken alone or together do not show or suggest the claimed receiving based on periodic determination feature and thus do not anticipate claim 5 or claims dependent on claim 5.

Claim 15 has also been amended to further define the receiving feature, specifically claim 15 now recites; "... the receiving based on a periodic determination of whether changes in availability of other client devices associated with the contact list have occurred; ..." Crockett et al '854 and Florkey et al taken alone or together do not show or suggest the claimed receiving based on periodic determination feature and thus do not anticipate claim 15 or claims dependent on claim 15.

Thus and in view of one or more of the reasons discussed above, Applicant respectfully submits that Crockett et al '854 and Florkey et al taken alone or together do not show or suggest

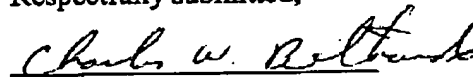
Appl. No. 10/749,083  
Amendment dated July 7, 2006  
Reply to Office Action of April 7, 2006

the claimed features of any of claims 1-21. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-21 under 35 U.S.C. 103(a) as being unpatentable over Crockett (U.S. Patent No. 6,873,854) in view of Florkey et al (U.S. Patent No. 6,990,353).

Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable since this amendment is being filed within the allowed 3 month time period and no other fees appear to be due or payable, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayments to Deposit Account No. 50-3435.

Respectfully submitted,

  
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